

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2000-612-C - ORDER NO. 2001-361

APRIL 18, 2001

IN RE: Application of Aura Communications, Inc. for )	ORDER GRANTING
a Certificate of Public Convenience and )	CERTIFICATE
Necessity to Provide Local Exchange, )	
Exchange Access and Interexchange )	
Telecommunications Services and for )	
Alternative and Flexible Regulations. )	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of Aura Communications, Inc. ("Aura" or the "Company") for authority to provide local exchange, exchange access, and intrastate interexchange telecommunications services within the State of South Carolina. The Company requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Application was filed pursuant to Chapter 9 of Title 58 of the South Carolina Code Annotated, the Rules and Regulations of the Commission, and Section 253 of the federal Telecommunications Act of 1996.

By letter, the Commission's Executive Director instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the

areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. The Applicant complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on February 23, 2001.

On March 1, 2001, counsel for SCTC filed with the Commission a Stipulation in which the Applicant stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Aura provided written notice of its intent prior to the date of the intended service. The Company also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Aura agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on March 28, 2001, at 11:30 a.m. in the Commission's Hearing Room. The Honorable William Saunders, Chairman, presided. Aura was represented by John J. Pringle, Jr., Esquire. Jim Williams, President of Aura testified on

behalf of the Company. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff. Colanthia B. Alvarez, Rates Analyst and Roy H. Barnette, Auditor, presented testimony on behalf of the Commission Staff.

Aura intends to provide a full range of local exchange, exchange access, interexchange (including interLATA and intraLATA) and switched and special access telecommunications services throughout the State of South Carolina. Additionally, Aura intends to provide a wide array of communications services, including traditional local exchange “voice” services, data communications services, LAN networking services, Internet, web hosting, email management and e-commerce services, and video conferencing services. Aura will offer its telecommunications services in South Carolina through the use of its own switching facilities, combined with facilities leased from incumbent local exchange carriers (“ILECs”) or other facilities-based carriers, resold services and through a combination of these provisioning approaches.

Williams is responsible for the day-to-day operations of Aura; he determines the various services the Company will offer and how these services will be provided, either through facilities owned by Aura or leased from incumbent local exchange carriers. Williams also leads the negotiations of interconnection agreements with ILECs and he reviews all tariffs filed with the Commission on behalf of the Company. Prior to starting his own company, Williams worked for twelve years as a telecommunications and sales engineer specializing in voice, data, and video network design and management for Verizon Communications, Inc. Williams holds a Bachelor of Science degree in Economics from Duke University.

Williams presented testimony regarding the Company's financial, technical, managerial resources to provide telecommunications services. Aura was incorporated on September 19, 1997, as a North Carolina corporation. Regarding the Company's financial resources, the testimony reveals Aura has raised sufficient capital to deploy facilities and provide service in South Carolina and in other markets. Aura will raise additional capital as necessary to fund its ongoing operations. Additionally, according to the testimony, Aura intends to negotiate with venture capitalist who choose to invest in the Company.

The testimony also reveals that Aura's management team has extensive telecommunications and business experience. The record provides an explanation on the names, title and background experience of the management team of Aura. The Company's Vice President of Operations is Theresa Williams and she has more than fourteen years of management operations and sales experience. Timothy Morris, Director of Business Development, has extensive experience consulting with a broad range of businesses. Aura's Account Representative, Phillip Launt, has extensive experience with direct customer interaction and managing customer account relationship. David Steward is the Company's Network Systems Manager and he formerly worked for a telephone company and Internet provider, Homenet Communications and Accucomm. The Company's Regulatory Affairs Manager, Ronald Meece, formerly worked with Verizon Communications, Inc. for nearly thirty years and had numerous regulatory responsibilities including rate development and tariff filing.

Aura, after receiving certification, will market its services to residential and business customers. The Company's customer service department's hours of operation are twenty-four hours a day, seven days a week. Each customer will be assigned a primary and secondary sales representative and a technician who will be very familiar with assigned customers' accounts. When a customer calls Aura's customer service department, the call will be routed to the team who is assigned to the customer's account. Aura also bills its customers directly.

Alvarez testified that she reviewed the Company's application and tariff. Alvarez recommended a few changes to the Company's tariff so that it would be consistent with the Commission's rules and regulations. Issues addressed by Alvarez concerning the Company's tariff consists of the following topics: promotional offerings, returned check charge, deposits, and taxes. Regarding the Company's request for a waiver of the Commission's regulations which require the publication of directories and the maintenance of records required by the Commission's rules within the State of South Carolina and the Company's request to maintain its financial books and records in accordance with the Generally Accepted Accounting Principles, Alvarez testified that she did not object to the Commission granting waivers/request of these issues.

Barnette testified that the Company submitted the unaudited financial statements of its parent company Ntrnet Systems, Inc. The income statement dated January 1 through November 30, 2000, showed a net income from operations for the period. The balance sheet dated November 30, 2000, revealed cash made 8% of total assets. Additionally, the Company's current ratio was .52; long term debt made up 36% of total

liabilities and equity; and retained earnings were negative, as was stockholder's equity. Barnette concluded by stating Ntrnet Systems, Inc, the parent of Aura, is in a fair position financially. In Barnette's opinion, in order for the Company to service its long-term debt and improve the deficit in retained earnings, Aura will need to continue operating at a profit, locate additional sources of capital investment, or a combination thereof.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Aura is organized as a corporation under the laws of the State of North Carolina and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Aura is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. Aura has the managerial, technical, and financial resources to provide the services as described in its Application.

4. The Commission finds that Aura's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2000).

5. The Commission finds that Aura will support universally available telephone service at affordable rates.

6. The Commission finds that Aura will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by Aura “does not otherwise adversely impact the public interest.” S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 2000).

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Aura to provide competitive intrastate non-rural local exchange service in South Carolina. The terms of the Stipulation between Aura and SCTC are approved, and adopted as a part of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation. In addition, Aura is granted authority to provide intrastate interLATA interexchange service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. Aura shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Aura’s local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165

in Docket No. 97-467-C. Specifically, the Commission adopts for Aura's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, Aura's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. The Commission adopts a rate design for the long distance services of Aura which are consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

Under the Commission approved alternative regulation, the business service offerings of Aura including consumer card services, and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any



relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Aura also.

4. With regard to the interexchange residential service offerings of Aura, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

5. Aura shall not adjust its interexchange residential rates below the approved maximum level without notice to the Commission and to the public. Aura shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2000).

6. If it has not already done so by the date of issuance of this Order, Aura shall file its revised maximum long distance tariff and an accompanying price list within

thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

7. Aura is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

8. With regard to the Company's resale interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

9. Aura shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Aura changes underlying carriers, it shall notify the Commission in writing.

10. With regard to the origination and termination of toll calls within the same LATA, Aura shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. Aura shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at

[www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). The title of the forms which the Company shall utilize to file annual surveillance reports with the Commission is “Annual Information on South Carolina Operations for Interexchange Companies and AOS”.

12. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Aura shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the “Authorized Utility Representative Information” for which can be located at the Commission’s website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms) to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

13. Aura shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

14. By its Application, Aura requested a waiver of 26 S.C. Code Ann. Regs. 103-610 and 103-631 (1976 and Supp. 2000). Aura also request permission to keep its books and records in accordance with Generally Accepted Accounting Principles. The Company requests a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so it may

maintain its records required by the Public Service Commission rules or necessary for the administration thereof, in North Carolina. The Company also requests a waiver 26 S.C. Code Ann. Regs. 103-631 (Supp. 2000) so that the Company may include provisions in its interconnection agreements for ILECs to provide Aura's customers with directory listings. We grant the Company's request for a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) and 26 S.C. Code Ann. Regs. 103-631 (1976 and Supp. 2000). The Company's request to keep its books and records in accordance with Generally Accepted Accounting Principles is also granted. However, the Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Aura to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources

of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Aura shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

16. Aura shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Aura shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The "Annual Report for Competitive Local Exchange Carriers" form can be located at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form shall be utilized by the Company to file annual financial information with the Commission. Pursuant to the Commission's regulations, the Company shall file a CLEC Service Quality Quarterly Report with the Commission. The proper form for this report is Form #110 and can be found at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm).

17. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



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Chairman

ATTEST:



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Executive Director

(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 2000-612-C

Re: Application of Aura Communications, Inc. )  
for a Certificate of Public Convenience )  
and Necessity to Provide Local Exchange, )  
Exchange Access, and Interexchange Tele- )  
communications Services in the State of )  
South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Aura Communications, Inc. ("Aura") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Aura's Application. SCTC and Aura stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Aura, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. Aura stipulates and agrees that any Certificate which may be granted will authorize Aura to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. Aura stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.
4. Aura stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Aura provides such rural incumbent LEC and the Commission with written notice of its intent

to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Aura acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Aura stipulates and agrees that, if Aura gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Aura will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Aura acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Aura, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Aura agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.



9. Aura hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 1<sup>st</sup> day of March,  
2000.

Aura Communications, Inc.:

South Carolina Telephone Coalition:

John G. Pringle

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Attorneys for the South Carolina Telephone  
Coalition

## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

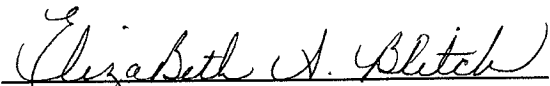
Docket No. 2000-612-C

Re: Application of Aura Communications, Inc. )  
for a Certificate of Public Convenience )  
and Necessity to Provide Local Exchange, )  
Exchange Access, and Interexchange Tele- )  
communications Services in the State of )  
South Carolina )  
\_\_\_\_\_ )

**CERTIFICATE OF  
SERVICE**

I, ElizaBeth A. Blich, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

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March 1, 2001

Columbia, South Carolina